

State of Colorado



Bill Owens
Governor

Stacy L. Worthington
Board Director

DPA

Department of Personnel
& Administration

State Personnel Board
The Chancery
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AGENDA PUBLIC BOARD MEETING December 16, 2003

A public meeting of the State Personnel Board will be held on Tuesday, December 16, 2003, at the Colorado Department of Public Health and Environment, 4300 Cherry Creek South Drive, Denver, Colorado 80246. The public meeting will commence at 9:30 a.m.

Reasonable accommodation will be provided **upon request** for persons with disabilities. If you are a person with a disability who requires an accommodation to participate in this meeting, please notify Board staff at 303-764-1472 by December 11, 2003.

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I. REQUESTS FOR RESIDENCY WAIVERS

- A. December 1, 2003 Report on Residency Waivers

Reports are informational only; no action is required.

II. PENDING MATTERS - PETITION FOR DECLARATORY ORDER

- A. Gary Berlin v. Department of Natural Resources, Division of Wildlife, State Personnel Board case number 2004D001.

On November 20, 2003, Petitioner filed a Request for Declaratory Order. Respondent's Response to Petition for Declaratory Order was filed on December 4, 2003.

III. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR ON APPEAL TO THE STATE PERSONNEL BOARD

- A. Dan Wells and Barry Rice v. Department of Higher Education, University of Colorado at Denver, Auraria Media Center, Auraria Library and Auraria Higher Education Center, State Personnel Board case number 2002B092(C).

On June 23, 2003, the Initial Decision of the Administrative Law Judge was issued. Complainant Wells Opening Brief was filed on November 7, 2003. Respondent's AHEC's Opening Appeal Brief was filed on November 10, 2003. Respondent's Brief in Response was filed on November 21, 2003. Complainant Barry Rice's Response to Respondent AHEC's Opening Appeal Brief and AHEC's Response to Wells' Opening Brief were filed

on November 24, 2003. Complainant Wells Reply Brief to Respondent AHEC's Response Brief and Respondent AHEC's Reply to Complainant Rice's Brief were filed on December 3, 2003.

- B. Susan Downey v. Community Colleges in Colorado, Arapahoe Community College, State Personnel Board case number 2003B109.

On July 31, 2003, the Initial Decision of the Administrative Law Judge was issued. Respondent's Opening Brief on Appeal was filed on November 13, 2003. Complainant's Response Brief was filed on November 19, 2003. Respondent's Reply Brief on Appeal was filed on November 26, 2003.

- C. James Aragon v. Department of Corrections, Centennial Correctional Facility, State Personnel Board case number 2003B202.

On July 22, 2003, an Order Granting Respondent's Motion to Dismiss Appeal with Prejudice was issued. Complainant's Opening Brief and Statement of James Aragon was filed on November 21, 2003. Respondent's Response to Complainant's Opening Brief was filed on December 3, 2003.

IV. REVIEW OF PRELIMINARY RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR TO GRANT OR DENY PETITIONS FOR HEARING

- A. Freddie Montoya, Jr. v. Colorado State University, University of Southern Colorado, State Personnel Board case number 2003G133.

Complainant petitions the State Personnel Board to grant a discretionary, evidentiary hearing to review Respondent's denial of his grievance. On November 26, 2003, a Preliminary Recommendation of the Administrative Law Judge was issued, recommending that a hearing be denied.

- B. Tony Roso v. Department of Transportation, State Personnel Board case number 2004G004.

Complainant petitions the State Personnel Board to grant a discretionary, evidentiary hearing to review Respondent's denial of his grievance and final grievance decision. On December 3, 2003, a Preliminary Recommendation of the Administrative Law Judge was issued, recommending that a hearing be denied.

V. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR

- A. Frances Moore v. Department of Human Services, Lookout Mountain Youth Service Center, State Personnel Board case number 2003B112.

On November 13, 2003, a First Amended Initial Decision of the Administrative Law Judge was issued, which replaces the Amended Initial Decision and Initial Decision. The ALJ found that Respondent's disciplinary termination of Complainant was arbitrary, capricious or contrary to rule or law; ordered that Respondent's action is rescinded; and ordered Respondent to reinstate Complainant with back pay and benefits to the date of termination. On October 30, 2003, the ALJ issued an Amended Initial Decision, pursuant to a Protective Order entered by the ALJ, mandating that the identities of all juveniles at Lookout Mountain remain confidential.

- B. Denise Martinez v. Department of Personnel and Administration, Executive Office, State Personnel Board case number 2003B118.

On November 26, 2003, the Initial Decision of the Administrative Law Judge was issued. The ALJ found that Respondent's administrative termination of Complainant was not arbitrary, capricious or contrary to rule or law, and ordered that Respondent's action is affirmed.

- C. Daniel Romero v. Department of Human Services, Division of Youth Corrections, Gilliam Youth Services Center, State Personnel Board case number 2004B037.

On November 26, 2003, the Initial Decision of the Administrative Law Judge was issued. The ALJ found that Respondent's month reduction in pay for four months of Complainant was not arbitrary, capricious or contrary to rule or law, and ordered that Respondent's action is affirmed and Complainant's appeal is dismissed with prejudice.

- D. Julie Marble v. Department of Corrections, Colorado Territorial Correctional Facility, State Personnel Board case number 2003B134.

On December 1, 2003, the Initial Decision of the Administrative Law Judge was issued. The ALJ found that Respondent's disciplinary demotion of Complainant was not arbitrary, capricious or contrary to rule or law and ordered that Respondent's action, with clarification that Complainant is eligible to apply for a promotion in the future, is affirmed and Complainant's appeal is dismissed with prejudice.

VI. REVIEW OF THE MINUTES FROM THE NOVEMBER 18, 2003 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

VII. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS NOVEMBER 18, 2003 PUBLIC MEETING:

- A. Brandy Rogers v. Department of Public Safety, Colorado State Patrol, State Personnel Board case number 2003B072.

The Board voted to adopt the findings of fact and conclusions of law in the Initial Decision of the Administrative Law Judge and to adopt the Initial Decision.

- B. Jeffrey Verhey v. Department of Revenue, Taxpayer Services, State Personnel Board case number 2003G129.

The Board voted to adopt the Order Granting Respondent's Motion to Dismiss for Lack of Jurisdiction.

- C. Sam Biondolillo v. Department of Corrections, Centennial Correctional Facility, State Personnel Board case number 2003G140

The Board voted to adopt the Order of Dismissal.

- D. Kem Reliford v. Department of Transportation, State Personnel Board case number 2003G128.

The Board voted to adopt the Preliminary Recommendation of the Director and grant the petition for hearing.

VIII. REPORT OF THE STATE PERSONNEL DIRECTOR

IX. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS

- Budget Report and Revenue and Expense Report
- Cases Scheduled for Preliminary Review
- Cases on Appeal to the Board and to Appellate Courts
- Appeal Dismissed in Shipley v. Department of Public Safety, Colorado State Patrol, State Personnel Board case number 2001G029, Court of Appeals No. 02CA2271
- Order Affirmed in Koinis v. Department of Public Safety, State Personnel Board case number 2001B082, Court of Appeals No. 02CA1631

B. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC

X. EXECUTIVE SESSION

A. Case Status Report

B. Minutes of the November 2003 Executive Session

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NEXT REGULARLY SCHEDULED BOARD MEETINGS
9:00 a.m.

<u>Date</u>	<u>Location</u>
January 20, 2004	Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222
February 17, 2004	Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222
March 16, 2004	Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222
April 20, 2004	Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222
May 18, 2004	Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222
June 15, 2004	Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222